

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

RAYMOND CURTIS EVANS,)	
)	
Plaintiff,)	
v.)	Case No. CIV-08-739-D
)	
FEDERAL TRANSFER CENTER, <i>et al.</i> ,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

Plaintiff, appearing *pro se*, has submitted to this Court for filing a civil rights complaint pursuant to 42 U.S.C. §1983 alleging violations of his constitutional rights.

At the time of filing, Plaintiff neither paid the required filing fee nor submitted a motion for leave to proceed *in forma pauperis*, contrary to Local Civil Rules 3.2 and 3.3. Consequently, an Order was entered on July 21, 2008, giving Plaintiff until August 18, 2008, to cure the deficiencies.

On August 25, 2008, rather than recommending dismissal of the action for failure to comply with the Court's Order, the Court *sua sponte* gave Plaintiff additional time until September 12, 2008, in which to cure his deficiencies. Plaintiff was advised that failure to comply with the terms of the Order could result in dismissal of this action without prejudice to refiling.

As of this date, Plaintiff has not paid the filing fee, filed a motion for leave to proceed *in forma pauperis* or requested an extension of time to do so. Under these circumstances, it is recommended that the action be dismissed without prejudice to the filing of a new action. See LCvR3.2 and 3.3.

NOTICE OF RIGHT TO OBJECT

Plaintiff is advised of his right to object to this Report and Recommendation. *See* 28 U.S.C. § 636. Any objections must be filed with the Clerk of the District Court by October 14th, 2008. *See* LCvR72.1. Plaintiff is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of the factual and legal issues addressed herein. *Moore v. United States*, 950 F.2d 656 (10th Cir. 1991).

STATUS OF REFERRAL

This Report and Recommendation disposes of all issues referred by the District Judge in this matter.

ENTERED this 23rd day of September, 2008.



VALERIE K. COUCH
UNITED STATES MAGISTRATE JUDGE